

SENATE BILL No. 169

By Committee on Federal and State Affairs

2-2

9 AN ACT concerning schools; establishing the special needs scholarship
10 program.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. The purpose of this act is to provide special needs students
14 with the option to attend the public or nonpublic school of their choice.

15 Sec. 2. As used in this act:

16 (a) "Program" means the special needs scholarship program.

17 (b) "Eligible student" means any elementary or secondary student
18 attending public school in our state with an individual education plan,
19 including but not limited to, students who are mentally handicapped,
20 speech and language impaired, deaf or hard of hearing, visually impaired,
21 dual sensory impaired, physically impaired, emotionally handicapped,
22 specific learning disabled, autistic, or hospitalized or homebound due to
23 illness or disability.

24 (c) "Parent" has the meaning ascribed thereto in K.S.A. 72-962, and
25 amendments thereto.

26 (d) "Resident school district" means the public school district in
27 which the student resides.

28 (e) "Department" means the state department of education.

29 (f) "Participating school" means either a public school outside of the
30 resident school district or any nonpublic school that: (1) Provides edu-
31 cation to elementary and secondary students; (2) has notified the depart-
32 ment of their intention to participate in the program; and (3) complies
33 with the requirements of the program.

34 Sec. 3. (a) Any parent of a public school special needs student who
35 is dissatisfied with the student's progress shall qualify for a scholarship
36 from the state for the child to enroll in and attend a nonpublic school if:

37 (1) The special needs student has had an individual education plan
38 written in accordance with the rules of the department;

39 (2) the student has been accepted for admission at a participating
40 school;

41 (3) the parent has requested a scholarship from the state before the
42 deadline established by the department.

43 (b) The department shall notify the resident school district that a

1 special needs student has requested a special needs scholarship. Within
2 three business days of receipt of such notice, the resident school district
3 shall provide the department with a copy of the student's most current
4 individual education plan.

5 (c) Upon receipt of the special needs student's request for a schol-
6 arship, the department shall review the individual education plan drafted
7 by the student's public school to determine the amount of the scholarship.
8 The department shall provide the student's parent with a timely written
9 explanation of their determination for the amount of the scholarship.

10 (d) The maximum scholarship granted an eligible student shall be an
11 amount equivalent to the cost of the educational program that would have
12 been provided for the student in the resident school district. Although
13 the scholarship amount is a function of a student's individual education
14 plan, the participating school is not required to abide by the individual
15 education plan. The parent and the participating school mutually will
16 determine the best services and educational plan for the student.

17 (e) The amount of the special needs scholarship shall be the lesser
18 of the amount calculated in section 3, and amendments thereto, or the
19 amount of the participating school's estimated costs for serving the stu-
20 dent. The costs of any assessment by the participating school of the stu-
21 dent's special needs may be included in the scholarship amount.

22 (f) Participating students shall be counted in the enrollment of their
23 resident school district. The funds needed to provide a scholarship shall
24 be subtracted from the state school aid payable to the student's resident
25 school district.

26 (g) The special needs scholarship shall remain in force until the stu-
27 dent returns to a public school, graduates from high school or reaches
28 the age of 21, whichever comes first.

29 (h) At any time, the student's parent may remove the student from
30 the participating school and place the student in another participating
31 school or in a public school.

32 Sec. 4. (a) A resident school district annually shall notify the parents
33 of a special needs student of the special needs scholarship program and
34 offer that student's parent an opportunity to enroll the student in a par-
35 ticipating school of their choice.

36 (b) The resident school district shall provide a participating school
37 that has admitted an eligible student with a complete copy of the student's
38 school records while complying with the family educational rights and
39 privacy act of 1974 (20 USC 1232g).

40 (c) The resident school district shall provide transportation for an
41 eligible student to and from the participating school in the same manner
42 as the resident school district is required by law to provide transportation
43 for other resident students to nonpublic schools. The resident school dis-

1 trict shall qualify for state transportation aid for each student so
2 transported.

3 (d) If the parent of an eligible student participating in this program
4 requests that the student take the state assessments, the resident school
5 district shall provide locations and times for the student to take all state
6 assessments if they are not offered at the student's participating school.

7 Sec. 5. (a) The department shall adopt any rules and procedures re-
8 lating to the following:

9 (1) The eligibility and participation of nonpublic schools, including
10 timelines that will maximize student and public and nonpublic school
11 participation.

12 (2) The calculation and distribution of scholarships to eligible stu-
13 dents and participating schools.

14 (3) The application and approval procedures for eligible students and
15 participating schools.

16 (b) No liability shall arise on the part of the department or the state
17 based on the award or use of a special needs scholarship.

18 (c) The department may bar a school from participation in the pro-
19 gram if the department establishes that the participating school has:

20 (1) Intentionally and substantially misrepresented information re-
21 quired under section 6, and amendments thereto.

22 (2) Failed to refund to the state any scholarship overpayments in a
23 timely manner.

24 (d) If the department decides to bar a participating school from the
25 program, it shall notify eligible students and their parents of this decision
26 as quickly as possible.

27 Sec. 6. (a) To be eligible to participate in the special needs scholar-
28 ship program, a nonpublic school must:

29 (1) Operate in this state.

30 (2) Demonstrate administrative accountability.

31 (3) Ensure that students are treated fairly and kept safe.

32 (4) Comply with all health and safety laws that apply to nonpublic
33 schools.

34 (5) Hold a valid occupancy permit, if required.

35 (6) Certify that the school will not discriminate in admissions on the
36 basis of race, color, national origin or religion.

37 (7) Comply with all state laws that apply to nonpublic schools re-
38 garding criminal background checks for employees and exclude from em-
39 ployment any people not permitted by state law to work in a nonpublic
40 school.

41 (8) Demonstrate financial accountability.

42 (9) Submit a financial information report for the school that complies
43 with uniform financial accounting standards established by the depart-

1 ment and conducted by a certified public accountant and certified that
2 the report is free of material misstatements. The auditor's report shall be
3 limited in scope to those records that are necessary for the department
4 to make payments to schools for scholarships.

5 (10) Demonstrate financial viability by showing that the school can
6 pay any funds owed the state, if they are to receive \$50,000 or more
7 during the school year.

8 (11) File with the department prior to the start of the school year a
9 surety bond payable to the state in an amount equal to the aggregate
10 amount of the special needs scholarships expected to be paid during the
11 school year to students admitted to the participating school; or prior to
12 the start of the school year, file with the department financial information
13 that demonstrates the school has the ability to pay an aggregate amount
14 equal to the amount of the special needs scholarships expected to be paid
15 during the school year to students admitted to the participating school.

16 (12) Regularly report to the parent on the student's progress.

17 (b) A participating school is autonomous and not an agent of the state
18 or federal government therefore. The department and any other state
19 agency may not in any way regulate the educational program of a partic-
20 ipating school that accepts a special needs scholarship. The creation of
21 the special needs scholarship program does not expand the regulatory
22 authority of the state, its officers or any school district to impose any
23 additional regulation of nonpublic schools beyond those reasonably nec-
24 essary to enforce the requirements of the program; and

25 (c) Participating schools shall be given the maximum freedom to pro-
26 vide for the educational needs of their students without governmental
27 control.

28 Sec. 7. (a) It shall be the responsibility of a parent to select their
29 child's school, apply for admission and apply for a special needs
30 scholarship.

31 (b) Any student participating in the program must comply fully with
32 a participating school's written code of conduct and shall remain in at-
33 tendance throughout the school year, unless excused by the school for
34 illness or other good cause. A parent may transfer an eligible student to
35 another participating school at any time. The scholarship amount shall be
36 prorated between participating schools according to the period of attend-
37 ance at each school.

38 (c) A parent's decision for their student to participate in the program
39 constitutes a nonpublic placement for purposes of the individuals with
40 disabilities education act.

41 Sec. 8. (a) The department may contract with one or more qualified
42 researchers who have previous experience evaluating school choice pro-
43 grams to conduct a study of the program with funds other than state

1 funds. The study shall assess:

2 (1) The level of participating student's satisfaction with the program.

3 (2) The level of parental satisfaction with the program.

4 (3) The percentage of participating students who were victimized be-
5 cause of their special needs status at their resident school district com-
6 pared to the percentage so victimized at their participating school;

7 (4) The percentage of participating students who exhibited behavioral
8 problems at their resident school district compared to the percentage
9 exhibiting behavioral problems at their participating school;

10 (5) The class size experienced by participating students at their res-
11 ident school district and at their participating school.

12 (6) The fiscal impact to the state and resident school districts of the
13 program.

14 (c) The researchers who conduct the study shall apply appropriate
15 analytical and behavioral sciences methodologies to ensure public confi-
16 dence in the study.

17 (d) The researchers who conduct the study shall provide the legisla-
18 ture with a final copy of the evaluation of the program.

19 (e) The public and nonpublic participating schools from which stu-
20 dents transfer to participate in the program shall cooperate with the re-
21 search effort by providing student assessment instrument scores and any
22 other data necessary to complete this study.

23 (f) The department may accept grants to assist in funding this study.

24 (g) The legislature may require periodic reports from the researchers.
25 The researchers must make their data and methodology available for pub-
26 lic review while complying with the requirements of family educational
27 rights and privacy act (FERPA).

28 Sec. 9. The special needs scholarship program will be in effect be-
29 ginning with the fall semester of school year 2005-2006.

30 Sec. 10. This act shall take effect and be in force from and after its
31 publication in the statute book.